

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF A POSSIBLE VACANCY	)	CASE NO.
ON THE BOARD OF COMMISSIONERS OF	)	2018-00011
NORTH MARSHALL WATER DISTRICT	)	

ORDER

This proceeding was initiated to determine whether a vacancy exists on the Board of Commissioners of North Marshall Water District (“North Marshall District”). Based upon the evidence in the record, the Commission, by Order entered February 21, 2018, determined that two vacancies do exist. Pursuant to KRS 74.020(4), the Commission, by this Order, appoints Billy Driskill and James K. Shadowen to fill the vacant seats.

North Marshall District, a water district organized in 1961 pursuant to KRS Chapter 74, owns and operates facilities that distribute water for compensation to approximately 5,496 customers in Livingston and Marshall counties in Kentucky.<sup>1</sup> As of December 31, 2016, North Marshall District had a net utility plant of \$8,533,304.<sup>2</sup> For the calendar year ended December 31, 2016, it had total operating revenues of \$1,629,570.<sup>3</sup>

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<sup>1</sup> *Annual Report of North Marshall County Water District to the Public Service Commission of Kentucky for the Year Ended December 31, 2016* at 9 and 48.

<sup>2</sup> *Id.* at 15.

<sup>3</sup> *Id.* at 19 and 48.

A five-member Board of Commissioners administers North Marshall District and has the statutory responsibility to “control and manage” the water district’s affairs.<sup>4</sup> By letter dated September 7, 2017, Bobby Gifford, North Marshall District Superintendent, advised the Commission that there were vacancies on the North Marshall District Board of Commissioners resulting from the expiration of two commissioners’ terms. According to the Superintendent, the terms of the commissioners, Billy Driskill and James K. Shadowen, ended on June 30, 2017, and the members of the Marshall County Fiscal Court had not appointed new commissioners or reappointed those commissioners as of September 7, 2017.

By Order entered January 29, 2018, the Commission established this case to determine whether a vacancy exists on the North Marshall District Board of Commissioners. The evidence of record shows that two such vacancies exist. The Marshall County Fiscal Court minutes show that Billy Driskill was reappointed on September 17, 2013, to serve on the North Marshall District Board of Commissioners, with his term expiring on June 30, 2017. The Marshall County Fiscal Court minutes also show that James K. Shadowen was appointed on August 11, 2015, to fill a vacant seat on the North Marshall District Board of Commissioners, with his term expiring on June 30, 2017. The Marshall County Fiscal Court minutes further show that the vacancies created by the expiration of the terms of Mr. Driskill and Mr. Shadowen were not filled within 90 days. As the vacancies created by the expiration of the terms of Mr. Driskill and Mr. Shadowen had not been filled by September 28, 2017, the statutory duty, and

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<sup>4</sup> KRS 74.020(1).

the exclusive authority to fill the vacancies, shifted from the Marshall County Judge/Executive and Marshall County Fiscal Court to the Commission.

The February 21, 2018 Order concluded that two vacancies exist and established a procedure to fill the vacancies. Having received nominations of five candidates to fill the two vacant seats, the Commission sought further information regarding the qualifications of the candidates in an Order filed March 22, 2018. The Commission conducted interviews with some of the candidates and, after a thorough review, concludes that Billy Driskill and James K. Shadowen should be appointed to fill the vacant seats on the North Marshall District Board of Commissioners.

In making our selection, the Commission must consider the totality of the circumstances, including the education, business and management experience, and personal history of the proposed candidates, and the existing financial and operating condition of the water district.<sup>5</sup> Based upon our review of the evidence of record, and Mr. Driskill's and Mr. Shadowen's experience, we find that Mr. Driskill and Mr. Shadowen are the best suited candidates and that there is no information to suggest that they are unqualified to serve in the designated positions. We further find that both candidates reside in North Marshall District's territory, are of legal age, possess adequate education, business skills, and experience to perform the duties of water district commissioner and do not have any legal disability that would disqualify them from serving in their respective positions. Accordingly, we find that Mr. Driskill and Mr. Shadowen should be appointed to fill the existing vacant seats on North Marshall District's Board of Commissioners.

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<sup>5</sup> See, e.g., Case No. 2012-00052, *Request to Fill Vacancies on Western Pulaski County Water District Board of Commissioners* (Ky. PSC Jan. 16, 2013)

IT IS THEREFORE ORDERED that:

1. Billy Driskill and James K. Shadowen are appointed to fill the two vacant seats identified in the February 21, 2018 Order. Their terms shall expire June 30, 2021.
2. The Executive Director shall serve a copy of this Order upon the Marshall County Judge/Executive, the members of the Marshall County Fiscal Court, the Marshall County Attorney, and the North Marshall District's Board of Commissioners.
3. This proceeding is closed and removed from the Commission's docket.

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By the Commission

ENTERED  
MAY 30 2018  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2018-00011

\*North Marshall Water District  
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Benton, KY 42025

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